

REMARKS

Claims 1-42 and 44 are cancelled; claim 43 is amended; and claims 43 and 45-57 are pending in the application.

The Examiner objects to the drawings for failing to include a reference symbol mentioned in the description. Specifically, the Examiner indicates that the reference symbol 824 is referred to in paragraph 0050 of the specification and yet is not shown in the drawings. Applicant thanks the Examiner for the careful reading of the application. Applicant has cancelled the reference symbol 824 from paragraph 0050, and believes that such overcomes the Examiner's objections to the drawings. Applicant therefore requests withdrawal of the Examiner's objections to the drawings in the Examiner's next action.

The pending claims stand rejected as being unpatentable over Eklund (U.S. Patent 6,114,734) in view of M. Tanaka et al. (2001 VLSI technical paper) and Yoo et al. (U.S. Patent 6,271,125). Applicant respectfully requests reconsideration of such rejections.

Referring first to claim 42, such claim is amended to incorporate the subject matter of previous claim 44 therein. Specifically, the claim is amended to indicate that a deuterated silicon nitride-containing material deposited over a gate stack and sidewall spacers is a deuterated silicon oxynitride-containing material. Amended claim 43 is believed allowable over the cited references for at least the reason that the references do not suggest or disclose the recited deuterated silicon oxynitride-containing material formed over a gate stack and over sidewall spacers.

The Examiner submits in rejecting claim 44 that it would be obvious that a silicon nitride material of Eklund (material 310) which is shown to be formed over a gate stack and sidewall spacers, could be a deuterated silicon oxynitride material. The Examiner indicates that Eklund contains disclosure at col. 5, lines 42-45 which supports the Examiner's contention that Eklund's deuterated silicon nitride layer 310 could be replaced with a deuterated silicon oxynitride layer.

Applicant respectfully disagrees with the Examiner's contention, and notes that Eklund specifically discloses at col. 5, lines 42-45 that sidewall spacers can be formed of silicon oxynitride. Eklund does not suggest or disclose that the described etch stop layer 310 could be formed of silicon oxynitride. In fact, there is no teaching within Eklund, or in any of the Examiner's other cited references of forming a layer comprising deuterated silicon oxynitride over a gate stack and over sidewall spacers. The only teaching of such claim 43 recited subject matter is in Applicant's specification. Accordingly, it would appear that the Examiner's contention that a step of depositing a deuterated silicon oxynitride-containing material over a gate stack and sidewall spacers is known to persons of ordinary skill in the art is based on impermissible hindsight reconstruction from Applicant's disclosed invention, rather than from any suggestion or disclosure found amongst the Examiner's cited references. Applicant therefore believes that amended claim 43 is allowable over the Examiner's cited references, and accordingly requests formal allowance of such claim in the Examiner's next action.

Claims 45-57 depend from claim 43, and are therefore allowable for at least the reasons discussed above regarding claim 43. Applicant therefore requests formal allowance of claims 45-57 in the Examiner's next action.

For the above-discussed reasons, claims 43 and 45-57 are allowable. Applicant therefore respectfully requests that the Examiner's next action be a Notice of Allowance.

Respectfully submitted,

Dated: NOVEMBER 12, 2004

By: 

David G. Lawless, Ph.D.
Reg. No. 38,533